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34 **IN THE UNITED STATES DISTRICT COURT**
35
36 **FOR THE DISTRICT OF NEVADA**

37 STEPHANIE SPILOTRO, as Guardian ad litem
38 for JASON DUENAS,

39 Case No. 2:19-cv-01586-RFB-BNW

40
41 **STIPULATION AND [PROPOSED]**
42 **ORDER TO STAY**

43 Plaintiff,

44 v.

45 C. R. BARD, INCORPORATED and BARD
46 PERIPHERAL VASCULAR, INCORPORATED,

47 Defendants.

1 Plaintiff Stephanie Spilotro, as Guardian ad litem for Jason Duenas (“Plaintiff”) and
 2 Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (“Defendants”) (Plaintiff and
 3 Defendants are collectively referred to herein as the “Parties”) pursuant to Fed R. Civ. P. 26 and this
 4 Court’s inherent powers, respectfully request that this Court enter an Order temporarily staying
 5 discovery and all pretrial deadlines imposed by the Court, the Local Rules, and the Federal Rules of
 6 Civil Procedure for ninety (90) days to permit the parties to finalize their settlement of all claims.

7 **I. BACKGROUND**

8 Plaintiff claims injuries related to the purported implantation of an Inferior Vena Cava
 9 (“IVC”) filter allegedly manufactured by Defendants. (ECF No. 1). The Parties have conducted
 10 various discovery, including depositions of the plaintiff’s guardian and medical providers, medical
 11 records collection, and initial and supplemental disclosures, but have reached an agreement in
 12 principle to resolve all claims. As such, the Parties hereby jointly move this Court to enter a stay of
 13 all discovery and pretrial deadlines in this case for a period of ninety (90) days.

14 **II. ARGUMENTS AND AUTHORITIES**

15 **A. This Court Has Authority to Grant the Requested Stay**

16 Pursuant to Federal Rules of Civil Procedure 6(b) and 26, and this Court’s inherent authority
 17 and discretion to manage its own docket, this Court has the authority to grant the requested stay. Fed.
 18 R. Civ. P. 6(b) (“When an act may or must be done within a specified time the court may, for good
 19 cause, extend the time...”); Fed. R. Civ. P. 26(a) (“A party or any person from whom discovery is
 20 sought may move for a protective order in the court where the action is pending...The Court may,
 21 for good cause, issue an order to protect a party or person from annoyance, embarrassment,
 22 oppression, or undue burden or expense.”). Therefore, this Court has broad discretion to stay
 23 proceedings as incidental to its power to control its own docket – particularly where, as here, a stay
 24 would promote judicial economy and efficiency. *Crawford-El v. Britton*, 523 U.S. 574, 598 (1998);
 25 *Sierra Club v. U.S. Army Corps of Engineers*, 446 F.3d 808, 816 (8th Cir. 2006) (citing *Clinton v.*
 26 *Jones*, 520 U.S. 681, 706 (1997)).

27 A stipulation to stay proceedings, like the Parties seek here, is an appropriate exercise of this
 28 Court’s jurisdiction. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936) (explaining a court’s

1 power to stay proceedings is incidental to its inherent power to control the disposition of the cases
 2 on its docket to save the time and effort of the court, counsel, and the parties.)

3 The power to stay proceedings is incidental to the power inherent in every court to
 4 control the disposition of the causes on its docket with economy of time and effort
 5 for itself, for counsel, and for litigants. How this can best be done calls for the
 exercise of judgment, which must weigh competing interests and maintain an even
 balance.

6 *Id.* (citing *Kansas City S. Ry. Co. v. United States*, 282 U.S. 760, 763 (1931)); *see also, CMAX, Inc.*
 7 *v. Hall*, 300 F.2d 268 (9th Cir. 1962) (district courts possess “inherent power to control the
 8 disposition of the cases on its docket in a manner which will promote economy of time and effort for
 9 itself, for counsel, and for litigants”); *Garlock Sealing Tech., LLC v. Pittsburgh Corning Corp. (In*
 10 *re Pittsburgh Corning Corp.)*, No. 11-1406, 11-1452, 2012 U.S. Dist. LEXIS 86193, at *11 (W.D.
 11 Mo. June 21, 2011) (noting a court’s power to stay proceedings is incidental to its power to control
 12 the disposition of the cases on its docket).

13 Furthermore, Federal Rules of Civil Procedure (26(c) and 26(d) also vest the Court with
 14 authority to limit the scope of discovery or control its sequence and may grant a stay to allow parties
 15 to negotiate a settlement. *Britton*, 523 U.S. at 598.

16 **B. Good Cause Exists to Grant the Requested Stay**

17 As noted herein, the Parties have reached a settlement in principle and are currently working
 18 to finalize all necessary documentation regarding the same. As such, the Parties do not seek the stay
 19 requested herein in bad faith but instead seek to stay all proceedings in the interest of efficiency and
 20 judicial economy. Granting the stay here will unquestionably save the time and effort of this Court,
 21 counsel, and the parties, and provide counsel with an opportunity to finalize the settlement of this
 22 case without any additional litigation expense.

23 Facilitating the Parties’ efforts to resolve this dispute entirely through settlement is reasonable
 24 and constitutes good cause for granting the requested stay. The Parties agree that the relief sought
 25 herein is necessary to handle and resolve this case in the most economical fashion, and that the relief
 26 sought in this stipulation is not for delay, but in the interest of efficiency.

27 //

28 //

III. CONCLUSION

For the foregoing reasons, the Parties respectfully request that this Court enter a stay of all activity in this case, for a period of ninety (90) days. If Plaintiffs have not filed dismissal papers within ninety (90) days from the stay being granted, the Parties request the opportunity to file a joint status report regarding the status of the settlement.

IT IS SO STIPULATED.

Dated this 10th day of February 2022.

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ORDER

IT IS ORDERED that ECF No. 73 is
GRANTED. IT IS FURTHER ORDERED
that a joint status report is due by
5/11/2022

IT IS SO ORDERED

DATED: 11:45 am, February 11, 2022

Jan Lowekamp

CERTIFICATE OF SERVICE

2 I hereby certify that on **February 10, 2022**, I caused the foregoing document to be
3 electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification
4 of such filing to the CM/ECF participants registered to receive service in this case.

/s/ *Shermielynn Irasga*

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SERVICE LIST

Spilotro v. C. R. Bard Incorporated, et al.,
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